

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MICHAEL GARRISON,

Plaintiff,

CIVIL ACTION NO. 06-CV-13258-DT

vs.

DISTRICT JUDGE NANCY G. EDMUNDS

BETH DAVIS, et al.,

MAGISTRATE JUDGE MONA K. MAJZOUN

Defendants.

OPINION AND ORDER
GRANTING DEFENDANTS JEROME AND SCOTT'S MOTION TO STRIKE FROM
THE RECORD DOCKET ENTRIES #32 AND #38

This matter comes before the Court on Defendants Jerome and Scott's Motion to Strike from the Record Docket Entries # 32 and # 38. (Docket no. 39). Plaintiff has not filed a Response but because the Court would order these entries to be stricken even without a pending motion, the Court will proceed to resolve the motions. The Court dispenses with oral argument pursuant to E.D. Mich. LR 7.1(e). Pretrial matters have been referred to the undersigned for decision. (Docket no. 26). This matter is now ready for ruling.

On March 6, 2008 this Court granted Plaintiff's Motion to Amend Complaint to add one defendant, Defendant Culberson. Plaintiff's original Complaint set out two claims, an Eighth Amendment claim of deliberate indifference to his serious medical need and a First Amendment claim for rejection of his incoming prisoner mail. (Docket no. 1). The district court later dismissed all but four of the named Defendants. (Docket no. 6). Plaintiff's Motion to Amend Complaint set

out the claims against Defendant Culberson which related to Plaintiff's original claims of improper rejection of his incoming mail. Plaintiff then filed his Amended Complaint. (Docket no. 32).

Plaintiff's Amended Complaint is not a complete document and violates this Court's Local Rule 15.1.¹ It fails to list all of the Defendants and fails to include all of the claims against all Defendants. Plaintiff's Amended Complaint also adds two Defendants in addition to Defendant Culberson (Defendants Butler and Robbins). The allegations against Defendants Butler and Robbins are based on occurrences not related to Plaintiff's original claims, which occurred in a different prison and at a much later time. Those claims are not properly joined in this action. *Wishon v. Gammon*, 978 F.2d 446, 448 (8th Cir. 1992) (no abuse of discretion in denying leave to amend unrelated claims where plaintiff could raise claim in separate action); *Taylor v. Dzurenda*, 2006 WL 758633 (D. Conn. Mar. 24, 2006) (amended complaint should clarify or amplify original cause of action; rejecting attempt to amend to add unrelated claims and new defendants). Plaintiff has also submitted a document entitled "Supplemental Facts Relating to Claims Against Defendants Butler and Robbins." (Docket no. 38). These facts are also not properly added to this action.

Accordingly, Plaintiff's Amended Complaint and Supplemental Facts (docket nos. 32 and 38) will be stricken from the record and not considered by the Court. Plaintiff may file another Amended Complaint. However, it must be a complete document in and of itself and not rely by reference on any portion of a previous complaint. The amended complaint is also limited to the claims already raised by Plaintiff with the exception of those previously dismissed by Judge Edmunds and limited to Defendants Culberson, Correctional Medical Services, M. Jerome, J. Scott, and Kelly Hughes. Any other claims against other defendants must be raised in a separate action.

¹ E.D. Mich. LR 15.1 provides that the amended pleading "must, except by leave of court, reproduce the entire pleading as amended, and may not incorporate any prior pleading by reference."

IT IS THEREFORE ORDERED that Defendants' Motion to Strike (docket no. 39) is **GRANTED**. The Clerk shall strike docket nos. 32 and 38 from the record. Plaintiff shall file an Amended Complaint as set out above on or before May 12, 2008.

NOTICE TO THE PARTIES

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. 636(b)(1).

Dated: May 05, 2008

s/ Mona K. Majzoub
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Opinion and Order was served upon Michael Garrison and Counsel of Record on this date.

Dated: May 05, 2008

s/ Lisa C. Bartlett
Courtroom Deputy